

“(i) the infringer pays reasonable compensation in a reasonably timely manner after the amount of such compensation has been agreed upon with the owner of the infringed copyright or determined by the court; and

“(ii) the court also requires that the infringer provide attribution, in a manner that is reasonable under the circumstances, to the legal owner of the infringed copyright, if requested by such owner.

“(C) LIMITATIONS.—The limitations on injunctive relief under subparagraphs (A) and (B) shall not be available to an infringer or a representative of the infringer acting in an official capacity if the infringer asserts that neither the infringer nor any representative of the infringer acting in an official capacity is subject to suit in the courts of the United States for an award of damages for the infringement, unless the court finds that the infringer—

“(i) has complied with the requirements of subsection (b); and

“(ii) pays reasonable compensation to the owner of the exclusive right under the infringed copyright in a reasonably timely manner after the amount of reasonable compensation has been agreed upon with the owner or determined by the court.

“(D) RULE OF CONSTRUCTION.—Nothing in subparagraph (C) shall be construed to authorize or require, and no action taken under such subparagraph shall be deemed to constitute, either an award of damages by the court against the infringer or an authorization to sue a State.

“(E) RIGHTS AND PRIVILEGES NOT WAIVED.—No action taken by an infringer under subparagraph (C) shall be deemed to waive any right or privilege that, as a matter of law, protects the infringer from being subject to suit in the courts of the United States for an award of damages.

“(d) PRESERVATION OF OTHER RIGHTS, LIMITATIONS, AND DEFENSES.—This section does not affect any right, or any limitation or defense to copyright infringement, including fair use, under this title. If another provision of this title provides for a statutory license that would permit the use contemplated by the infringer, that provision applies instead of this section.

“(e) COPYRIGHT FOR DERIVATIVE WORKS AND COMPILATIONS.—Notwithstanding section 103(a), an infringer who qualifies for the limitation on remedies afforded by this section shall not be denied copyright protection in a compilation or derivative work on the basis that such compilation or derivative work employs preexisting material that has been used unlawfully under this section.

“(f) EXCLUSION FOR FIXATIONS IN OR ON USEFUL ARTICLES.—The limitations on remedies under this section shall not be available to an infringer for infringements resulting from fixation of a pictorial, graphic, or sculptural work in or on a useful article that is offered for sale or other commercial distribution to the public.”

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 5 of title 17, United States Code, is amended by adding at the end the following:

“514. Limitation on remedies in cases involving orphan works.”

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall—

(A) take effect on the later of—

(i) January 1, 2009; or

(ii) the date which is the earlier of—

(I) 30 days after the date on which the Copyright Office publishes notice in the Federal Register that it has certified under section 3 that there exist and are available at least 2 separate and independent searchable,

electronic databases, that allow for searches of copyrighted works that are pictorial, graphic, and sculptural works, and are available to the public; or

(II) January 1, 2013; and

(B) apply to infringing uses that commence on or after that effective date.

(2) DEFINITION.—In this subsection, the term “pictorial, graphic, and sculptural works” has the meaning given that term in section 101 of title 17, United States Code.

SEC. 3. DATABASES OF PICTORIAL, GRAPHIC, AND SCULPTURAL WORKS.

The Register of Copyrights shall undertake a process to certify that there exist and are available databases that facilitate a user's search for pictorial, graphic, and sculptural works that are subject to copyright protection under title 17, United States Code. The Register shall only certify that databases are available under this section if such databases are determined to be effective and not prohibitively expensive and include the capability to be searched using 1 or more mechanisms that allow for the search and identification of a work by both text and image and have sufficient information regarding the works to enable a potential user of a work to identify or locate the copyright owner or authorized agent. Prior to certifying that databases are available under this section, the Register shall determine, to the extent practicable, their impact on copyright owners that are small businesses and consult with the Small Business Administration Office of Advocacy regarding those impacts. The Register shall consider the Office of Advocacy's comments and respond to any concerns.

SEC. 4. REPORT TO CONGRESS.

Not later than December 12, 2014, the Register of Copyrights shall report to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives on the implementation and effects of the amendments made by section 2, including any recommendations for legislative changes that the Register considers appropriate.

SEC. 5. STUDY ON REMEDIES FOR SMALL COPYRIGHT CLAIMS.

(a) IN GENERAL.—The Register of Copyrights shall conduct a study with respect to remedies for copyright infringement claims by an individual copyright owner or a related group of copyright owners seeking small amounts of monetary relief, including consideration of alternative means of resolving disputes currently heard in the United States district courts. The study shall cover the infringement claims to which section 514 of title 17, United States Code, apply, and other infringement claims under that title.

(b) PROCEDURES.—The Register of Copyrights shall publish notice of the study required under subsection (a), providing a period during which interested persons may submit comments on the study, and an opportunity for interested persons to participate in public roundtables on the study. The Register shall hold any such public roundtables at such times as the Register considers appropriate.

(c) REPORT TO CONGRESS.—Not later than 2 years after the date of the enactment of this Act, the Register of Copyrights shall prepare and submit to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives a report on the study conducted under this section, including such administrative, regulatory, or legislative recommendations that the Register considers appropriate.

SEC. 6. STUDY ON COPYRIGHT DEPOSITS.

(a) IN GENERAL.—The Comptroller General of the United States shall conduct a study examining the function of the deposit re-

quirement in the copyright registration system under section 408 of title 17, United States Code, including—

(1) the historical purpose of the deposit requirement;

(2) the degree to which deposits are made available to the public currently;

(3) the feasibility of making deposits, particularly visual arts deposits, electronically searchable by the public for the purpose of locating copyright owners; and

(4) the impact any change in the deposit requirement would have on the collection of the Library of Congress.

(b) REPORT.—Not later than 2 years after the date of the enactment of this Act, the Comptroller General shall submit to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives a report on the study conducted under this section, including such administrative, regulatory, or legislative recommendations that the Comptroller General considers appropriate.

OLD POST OFFICE BUILDING REDEVELOPMENT ACT OF 2008

Mr. WHITEHOUSE. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 1079, H.R. 5001.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (H.R. 5001) to authorize the Administrator of General Services to provide for the redevelopment of the Old Post Office Building located in the District of Columbia.

There being no objection, the Senate proceeded to consider the bill.

Mr. WHITEHOUSE. Mr. President, I ask unanimous consent that the bill be read a third time and passed, the motions to reconsider be laid upon the table with no intervening action or debate, and any statements related to the bill be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (H.R. 5001) was ordered to a third reading, was read the third time, and passed.

APPALACHIAN REGIONAL DEVELOPMENT ACT AMENDMENTS OF 2008

Mr. WHITEHOUSE. Mr. President, I ask that the Chair lay before the Senate a message from the House with respect to S. 496.

The Presiding Officer laid before the Senate a message from the House as follows:

S. 496

Resolved, That the bill from the Senate (S. 496) entitled “An Act to reauthorize and improve the program authorized by the Appalachian Regional Development Act of 1965”, do pass with the following amendment:

Strike out all after the enacting clause and insert:

SECTION 1. SHORT TITLE.

This Act may be cited as the “Appalachian Regional Development Act Amendments of 2008”.

SEC. 2. LIMITATION ON AVAILABLE AMOUNTS; MAXIMUM COMMISSION CONTRIBUTION.

(a) GRANTS AND OTHER ASSISTANCE.—Section 14321(a) of title 40, United States Code, is amended—